Case Summary

Complaint against six Government departments for failing to resolve the problem of laundry drying in public places

Foreword

Living in a small and densely populated city with predominantly high-rise residential buildings, most Hong Kong families do not have adequate space in their flats to dry or air their laundry. Some take their laundry, sheets and quilts out to dry in public open places nearby.

2. In years past, particularly in rural areas, drying laundry in public places was an accepted practice. With rising public aspirations for a better living environment, this practice is viewed with distaste, and criticisms have been levelled at such inconsiderate behaviour for marring the cityscape. However, Government departments consider that they are not empowered to take enforcement action. This has given rise to a complaint against the Government for failing to resolve the problem.

The Complaint

3. The complainant, a resident in Sai Kung District, walked past a pleasant tree-lined public pedestrian link everyday. Regrettably, the beautiful environment was marred by laundry being hung on trees and railings of public staircases. Complaints were lodged with the Housing Department ("HD"), Highways Department ("Hy D") and Food and Environmental Hygiene Department ("FEHD") but the complainant was told that the problem was "outside their jurisdiction". Home Affairs Department ("HAD") replied that the issue had to be tackled jointly by several Government departments. Dissatisfied with such "buck-passing" amongst the departments, a complaint was lodged with this Office.

4. The complaint targetted six Government departments: the **Leisure and Cultural Services Department** ("LCSD"), **Hy D**, **Transport Department** ("TD"), **HAD, Lands Department** ("Lands D") and **FEHD**.

Attempt at Coordination

5. Lands D, HAD, FEHD, Hy D, TD, Buildings Department and the Police held an inter-departmental meeting in mid-November 2003 to discuss the "grey areas" in street management. Removal of laundry in public places was on the agenda.

6. Representatives reaffirmed that their respective departments were not authorised to deal with this problem. They finally agreed that, pending Hy D obtaining legal advice, they should refer repeated complaints within a particular district to the relevant District Office ("DO") for it to advise the residents against such practice.

Supplementary Information from Departments

7. For the complaint in question, the local DO wrote to the management offices and owners' corporations of the public housing estate concerned and private residential developments nearby, asking them to deal with the problem. It further convened an inter-departmental meeting in mid-May 2004 ("May meeting"), which was attended by representatives from Lands D, FEHD, LCSD, Hy D and TD (the "five Departments"). DO suggested that warning signs be posted at laundry drying black spots in the district to warn residents before the five Departments took action to remove laundry. Besides drawing up a list of black spots in the district, DO also designed warning signs for departments to post at black spots within their jurisdiction. **HAD** considered it more effective for a single department to take action but none had the proper authority to tackle the problem under existing legislation.

8. **Lands D** indicated that under the Land (Miscellaneous Provisions) Ordinance, it could remove only structures on unleased Government land. Moreover, offenders must be given at least one day's prior notice. To invoke the legislation and take enforcement action against laundry hung for only a few hours would not be practical. The Department believed that it should adhere to the decision at the May meeting, i.e. to take inter-departmental action against the problem.

9. **FEHD** explained that laundry hung by the local residents were not rubbish. As they would not cause inconvenience to street-sweepers or obstruct passageways, there was no basis for the Department to invoke the Public Health and Municipal Services Ordinance or the Summary Offences Ordinance and take enforcement action. On the other hand, according to the

decision at the May meeting, laundry could be put on the ground by staff of departments concerned and then be treated as rubbish by FEHD staff if their owners did not take them back. FEHD considered that the Government should educate the public, and designated drying areas for laundry be set up within housing estates.

10. **LCSD** said that it was only responsible for the maintenance of plants in the area in question but not authorised to remove laundry hung there. The Department had, following the decision at the May meeting, put up warning signs there to urge residents not to dry their laundry in public places. The situation had now improved. LCSD indicated that before starting maintenance works on plants, its staff would remove laundry on the trees and put them on the ground just next to the trees.

11. **Hy D** considered that under the Road Traffic (Traffic Control) Regulations, its staff could only take action to remove obstacles when they cause obstructions to road/maintenance works, or when they pose a threat to pedestrians or vehicles. It further pointed out that drying of laundry in public places was a district problem in which facilities under several departments were involved. The issue was thus best dealt with through inter-departmental efforts coordinated by the local DO, lest individual departments had to face alone residents upset by such enforcement action.

12. **TD** indicated that drying of laundry in public places had nothing to do with transport management and control. The problem, therefore, did not fall within their jurisdiction. Besides, the site in question was some distance from roads and pedestrian crossings. To dry laundry there should not affect the traffic, nor pose a danger to vehicles or pedestrians. TD would normally refer complaints to the departments responsible for the district concerned. Complaints received from other departments would be assessed from a traffic control perspective to determine whether the safety of road-users had been compromised.

Observations and Opinions

13. **DO** had written to various parties concerned, convened the May meeting, drawn up a list of the black spots and even designed warning signs for other departments to use. It had performed appropriately as district coordinator and was proactive in coordinating inter-departmental efforts to

find solutions to the problem.

14. **Lands D** had the duty to keep unleased Government land free from illegal occupation. To dry laundry in public places is to occupy Government land for private use and so the Department should take action. Lands D did not do so because of a certain technicality i.e. at least one day's notice should be given. It had actually dodged its responsibility in resolving the problem.

15. Laundry hung in public places marred the cityscape and scenery. **FEHD** also did not focus sufficiently on solving the problem. As the Department is already authorised to remove publicity materials, by extension, it should be empowered to remove laundry hung in public places. If necessary, it could consider amending the Public Health and Municipal Services Ordinance.

16. Drying of laundry on trees was not a new issue, but **LCSD** sidestepped the problem and did not attempt to find a solution.

17. One of the spots of drying of laundry in question was the railings of staircases on slopes. It meant that passers-by could not use the railings as handrails because of the laundry, thus affecting their safety. **Hy D** did not take enforcement action to remove the laundry.

18. Laundry hung along the pavement would cause obstructions or even danger to vehicles if they ever got blown onto the roads. The problem therefore had a bearing on transport management and control. However, **TD**, just like the other departments, was only concerned with its own perspective, and did not focus on finding a solution from a wider perspective of the Government as a whole.

Conclusion

19. This Office considered that the local DO under HAD had played a proactive role in coordinating inter-departmental efforts to find solutions to the problem. The complaint against HAD was, therefore, **unsubstantiated**.

20. Lands D, FEHD, LCSD, Hy D and TD claimed that they had no authority to take action on their own. If so, whence did their authority for joint enforcement action come? This Office was of the view that, actually,

none of the five Departments was willing to assume the sole responsibility or a leading role in solving the problem. They had procrastinated and failed to take proper action. Therefore, the complaint against the five Departments was **substantiated**.

Comments from Departments

21. All of the six departments concerned responded to our findings. **HAD** indicated it had no comment on our investigation report whilst the five Departments gave their views.

22. **Lands D** understood it had the duty to keep government land free from illegal occupation. It, however, clarified that illegal occupation took many forms (such as posting publicity materials and abandoning vehicles) and Government departments would adopt different measures in different situations. As regards this case, the departments concerned agreed that inter-departmental action could temporarily stem the problem.

23. **FEHD** stressed that laundry hung in public places were not publicity materials and it could not be proved that they were rubbish causing obstruction or danger to pedestrians. As a result, the Department could not invoke the law and take action to remove it. Furthermore, the intent of relevant legislation should be taken into account when departments considered any need to amend existing ordinances or enact new ones, and which one(s) to amend in case there was a need.

24. **LCSD** was of the view that the vegetation had been properly maintained since the contractors would remove laundry on trees and put them on the ground next to the trees. So far, it had referred such complaints to TD and Hy D immediately for them to follow up.

25. **Hy D** did not agree to our conclusion that the complaint against it was substantiated. The Department considered that drying of laundry in public places was basically a problem affecting the local cityscape. It could be solved through an amendment to the Public Health and Municipal Services Ordinance to grant FEHD proper authority. From the perspectives of the law, policy, administrative arrangements and the use of public resources, FEHD should be the most suitable department.

26. **TD** expressed reservation over the view that laundry hung in green zones would affect road safety. Nevertheless, it agreed that laundry hung by roadside or at road intersections or pedestrian crossings might block the view of passers-by and drivers, thus affecting road safety.

Final Remarks by The Ombudsman

27. The five Departments are overly concerned that their individual enforcement actions may lead to confrontation with residents and would like DO to take up the responsibility of coordinating joint action. However, coordinated inter-departmental action is time consuming and can only be a stopgap measure, not a long-term solution to the problem. The five Departments should get legal advice with a view to seeking empowerment for them to act within their own jurisdiction against laundry hung in public places. An agreement should be reached within the Administration for a single department to take up a leading role in enforcement action to remove laundry as a matter of routine. This may involve legislative amendment, if needed.

28. After considering the views of the departments, The Ombudsman reaffirmed her findings against the five departments.

29. This case illustrates clearly the inability or indecision on the part of the departments concerned to resolve the problem. To remedy the lack of effective central coordination, The Ombudsman has requested the Chief Secretary for Administration's intervention to consider:

(a) authorising a particular department to assume 'lead' responsibility to deal with the problem;

(b) the necessity of amending existing legislation to ensure that departments have the necessary legal authority for enforcement actions; and

(c) studying with HD, HAD and Buildings Department the feasibility of designating areas for drying laundry within public housing estates, Home Ownership Scheme estates and private residential developments.

Office of The Ombudsman
January 2005